

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:06CV316  
(1:04CR43-10)**

|  |   |                     |
|--|---|---------------------|
| <b>BILLY EUGENE PROFFITT, JR.,</b>     | ) |                     |
|  | ) |                     |
| <b>Petitioner,</b>                     | ) |                     |
|  | ) |                     |
| <b>Vs.</b>                             | ) | <u><b>ORDER</b></u> |
|  | ) |                     |
| <b>UNITED STATES OF AMERICA,</b>       | ) |                     |
|  | ) |                     |
| <b>Respondent.</b>                     | ) |                     |
| <hr style="width:45%; margin-left:0"/> | ) |                     |

**THIS MATTER** is before the Court on the Petitioner's application for a certificate of appealability.

In the Court's Order of Dismissal filed November 15, 2006, the Petitioner was granted a certificate of appealability to the Fourth Circuit Court of Appeals. **See, Order of Dismissal, filed November 15, 2006, at 2.** Therefore, the current application is moot.

**IT IS, THEREFORE, ORDERED** that the Petitioner's application for a certificate of appealability is hereby **DENIED** as moot.

Signed: February 14, 2007

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

